IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

SPECIAL CIVIL APPLICATION No 3875 of 1988

For Approval and Signature:

Hon'ble MR.JUSTICE K.A.PUJ

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1. Whether Reporters of Local Papers may be allowed to see the judgements? : NO

2. To be referred to the Reporter or not? : NO

3. Whether Their Lordships wish to see the fair copy of the judgement? : NO

4. Whether this case involves a substantial question of law as to the interpretation of the Constitution of India, 1950 of any Order made thereunder? : NO

5. Whether it is to be circulated to the Civil Judge? : NO

DAVE DINKARRAI MAHASHANKAR

Versus

STATE OF GUJARAT

Appearance:

MR PM RAVAL for Petitioners.

Ms. Manisha Lavkumar AGP for Respondents.

CORAM : MR.JUSTICE K.A.PUJ

Date of decision: 06/12/2001

ORAL JUDGEMENT

Heard Mr. Harin P. Raval, learned advocate for the petitioners and Ms. Manisha Lavkumar, learned AGP appearing for the respondents. The petitioners have filed this petition before this Court seeking directions to the respondents for consideration of their case for promotion to the post of Malaria Surveillance Workers (Multipurpose Health Workers). The petitioners have further prayed for the deemed date of promotion if promoted and also sought direction to give all

consequential benefits.

2. On behalf of the petitioners it was contended that the petitioners were qualified to be promoted to the post of Multipurpose Health Workers in Family Health Welfare Department in Gujarat State and yet the petitioners were not considered and promoted to the said post. It was further contended that as per the rules prescribed, the requisite criteria was complied with so as to enable the respondents to promote them to the aforesaid post. A grievance was further raised to the effect that the respondents were not following the required standards for the purpose of promotion eventhough they were eligible for promotion. The petitioners have further contended that though they were eligible for promotions and several orders were passed giving promotions to various persons their case is not considered for promotion to the said post. The petitioners therefore submitted that the action of the respondents was arbitrary and illegal and violative of Articles 14 and 16 of the Constitution.

3. The learned Government Pleader on behalf of the respondents has pointed out from the affidavit-in-reply that the petitioners were engaged by the district authorities in-charge of Malaria Programme every year for a specific work of D.D.T. spraying especially for a period of 4 or 5 months and on completion of the said work they were relieved from the said job. The petitioners were therefore not engaged in any regular fill-time employment. It was further contended on behalf of the respondents that the higher post of Malaria Surveillance Workers could be filled in by regular full-time appointments in order of seniority, i.e., preferring those appointees who have been doing such spraying work for last several years. While filling-in such posts the authorities were taking into consideration the experience, qualification etc., and while comparing the experience of the petitioners, more than 100 such similarly situated Field Workers/Superior Field Workers who were senior to the petitioners were appointed till the date of filing of the petition as the Full-time Surveillance Workers. Those persons were also SSC passed and more than 3 years' experience to their credit as on 1984. It was further averred in the affidavit-in-reply that the petitioners' case could be examined for regular full-time employment as Malaria Surveillance Workers when their turn would come according to the seniority of such persons. It was therefore submitted on behalf of the respondents that there was no question of giving any promotion to the petitioners as was claimed by them. The specific averment was also made in the affidavit-in-reply

that the petitioners' case is for appointment to the post of Malaria Surveillance Workers would be considered in order of seniority. It was further stated that the employees appointed by orders at Annexures C-1 and C-2 to the petition were much senior to the petitioners and therefore their case stand on a better footing than that of the petitioners.

4. I have heard the learned advocates for the petitioners as well as the respondents and after considering the pleadings of the parties as well as the arguments and submissions made before me, I am of the view that the stand taken by the respondents appears to be just and proper. The respondent authorities do not deny the eligibility of the petitioners for the purpose of promotion in the aforesaid post. It was the case of the respondents that the petitioners' case would be considered when their turn would come. I do not find fault with the reasoning adopted by the respondents in the affidavit-in-reply and hence no interference is called for with regard to the stand taken by the respondents. It is, however, made clear that the respondent-authorities would take into consideration the cases of the petitioners for higher grade as and when their turn would come. With these observations, the petition is dismissed. Rule is discharged with no order as to costs.

rmr. [K.A. Puj, J.]